IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 12148 of 2000

TO

SPECIAL CIVIL APPLICATION No. 12165 of 2000

WITH

SPECIAL CIVIL APPLICATION No. 11583 of 2000

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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STATE OF GUJARAT - Petitioner(s)

Versus

MAHADEV VERSHI - Respondent(s)

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Appearance :

MR A D OZA GOVERNMENT PLEADER for Petitioner No(s).: 1.

MRS DT SHAH for Respondent No(s).: 1.

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CORAM :HON'BLE MR JUSTICE KS JHAVERI

Date : 04/07/2005

ORAL JUDGMENT

1.0 The petitioner State has challenged the order dated 17.05.2000 passed by the Labour Court, Surendranagar, in Reference (LCS) No.159 of 1992, whereby the said reference was allowed.

2.0 The brief facts of the case are that the respondents herein were working with the petitioner State as Gardeners on daily wages. On 08.03.1992, the services of the respondents were terminated by the petitioner State. Feeling aggrieved by the said order, the respondents raised industrial dispute, which ultimately, came to be referred to the Labour Court by way of a reference being Reference (LCS) No.159 of 1992. The Labour Court, Surendranagar, by impugned order dated 17.05.2000, allowed the said reference. Hence, these petitions.

3.0 I have heard learned counsel for the parties and perused the documents placed on record. In view of the decision in the case of ***Gujarat Forest Producers, Gatherers & Forest Workers Union v. State of Gujarat, reported in 2004(2) G.L.R. pg.1488***, wherein it has been held that having regard to the subjects allotted to it under the Rules of Business, the entire Forest and Environment Department of the State Government cannot be termed as “industry”. However, an activity or undertaking of the said Department can be categorized as “industry”, if it

satisfies the triple test formulated in Bangalore Water Supply case and does not fall within the exceptions culled out therein. Hence, the Labour Court is required to consider the matters afresh.

4.0 In above view of the matter, the impugned order dated 17.05.2000 passed by the Labour Court, Surendranagar, in Reference (LCS) No.159 of 1992, is quashed and set aside. The matters are remanded for adjudication afresh in view of the aforesaid decision. The Labour Court, Surendranagar is directed to dispose of the proceedings within a period of six months from the receipt of writ of this order. It is clarified that if the directions issued by this Court vide order dated 21.10.2004 passed in Civil Application No.7355 of 2004 in Special Civil Application No.12148 and group have not been implemented so far, then the petitioner State is directed to grant the said benefits to the respondents till the same is realized. It shall be open to the parties to raise all contentions and to pray for all reliefs, including the contention regarding continuity of service. The petitions stand disposed of accordingly. Rule is made absolute to the aforesaid extent with no order as to costs.

(K. S. JHAVERI, J.)

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